

International Economic Law

VOLUME IV

THE INTERNATIONAL MONETARY SYSTEM

by

ANDREAS F. LOWENFELD

Professor of Law

New York University

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**MATTHEW
BENDER**

235 E. 45TH STREET, NEW YORK, N.Y. 10017

3. Second Amendment to Articles of Agreement of the International Monetary Fund (1976)*

The text of the Articles of Agreement of the International Monetary Fund shall read as follows:

"The Governments on whose behalf the present Agreement is signed agree as follows:

INTRODUCTORY ARTICLE

(i) The International Monetary Fund is established and shall operate in accordance with the provisions of this Agreement as originally adopted and subsequently amended.

(ii) To enable the Fund to conduct its operations and transactions, the Fund shall maintain a General Department and a Special Drawing Rights Department. Membership in the Fund shall give the right to participation in the Special Drawing Rights Department.

(iii) Operations and transactions authorized by this Agreement shall be conducted through the General Department, consisting in accordance with the provisions of this Agreement of the General Resources Account, the Special Disbursement Account, and the Investment Account; except that operations and transactions involving special drawing rights shall be conducted through the Special Drawing Rights Department.

ARTICLE I

PURPOSES

The purposes of the International Monetary Fund are:

(i) To promote international monetary cooperation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems.

(ii) To facilitate the expansion and balanced growth of inter-

* Not yet in force as of summer 1977.

entered into with other members prior to this Agreement in such a manner as will prevent the operation of the provisions of this Article.

ARTICLE VIII

GENERAL OBLIGATIONS OF MEMBERS

Section 1. *Introduction*

In addition to the obligations assumed under other articles of this Agreement, each member undertakes the obligations set out in this Article.

Section 2. *Avoidance of restrictions on current payments*

(a) Subject to the provisions of Article VII, Section 3(b) and Article XIV, Section 2, no member shall, without the approval of the Fund, impose restrictions on the making of payments and transfers for current international transactions.

(b) Exchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistently with this Agreement shall be unenforceable in the territories of any member. In addition, members may, by mutual accord, cooperate in measures for the purpose of making the exchange control regulations of either member more effective, provided that such measures and regulations are consistent with this Agreement.

Section 3. *Avoidance of discriminatory currency practices*

No member shall engage in, or permit any of its fiscal agencies referred to in Article V, Section 1 to engage in, any discriminatory currency arrangements or multiple currency practices, whether within or outside margins under Article IV or prescribed by or under Schedule C, except as authorized under this Agreement or approved by the Fund. If such arrangements and practices are engaged in at the date when this Agreement enters into force, the member concerned shall consult with the Fund as to their progressive removal unless they are maintained or imposed under Article XIV, Section 2, in which case the provisions of Section 3 of that Article shall apply.

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IMF ARTICLES OF AGREEMENT SECOND AMENDMENT

Section 4. *Convertibility of foreign-held balances*

(a) Each member shall buy balances of its currency held by another member if the latter, in requesting the purchase, represents:

(i) that the balances to be bought have been recently acquired as a result of current transactions; or

(ii) that their conversion is needed for making payments for current transactions.

The buying member shall have the option to pay either in special drawing rights, subject to Article XIX, Section 4, or in the currency of the member making the request.

(b) The obligation in (a) above shall not apply when:

(i) The convertibility of the balances has been restricted consistently with Section 2 of this Article or Article VI, Section 3;

(ii) the balances have accumulated as a result of transactions effected before the removal by a member of restrictions maintained or imposed under Article XIV, Section 2;

(iii) the balances have been acquired contrary to the exchange regulations of the member which is asked to buy them;

(iv) the currency of the member requesting the purchase has been declared scarce under Article VII, Section 3(a); or

(v) the member requested to make the purchase is for any reason not entitled to buy currencies of other members from the Fund for its own currency.

Section 5. *Furnishing of information*

(a) The Fund may require members to furnish it with such information as it deems necessary for its activities, including, as the minimum necessary for the effective discharge of the Fund's duties, national data on the following matters:

(i) official holdings at home and abroad of (1) gold, (2) foreign exchange;

(ii) holdings at home and abroad by banking and financial agencies, other than official agencies, of (1) gold, (2) foreign exchange;

(iii) production of gold;

(iv) gold exports and imports according to countries of destination and origin;

(v) total exports and imports of merchandise, in terms of local currency values, according to countries of destination and origin;

(vi) international balance of payments, including (1) trade in goods and services, (2) gold transactions, (3) known capital transactions, and (4) other items;

(vii) international investment position, i.e., investments within the territories of the member owned abroad and investments abroad owned by persons in its territories so far as it is possible to furnish this information;

(viii) national income;

(ix) price indices, i.e., indices of commodity prices in wholesale and retail markets and of export and import prices;

(x) buying and selling rates for foreign currencies;

(xi) exchange controls, i.e., a comprehensive statement of exchange controls in effect at the time of assuming membership in the Fund and details of subsequent changes as they occur; and

(xii) where official clearing arrangements exist, details of amounts awaiting clearance in respect of commercial and financial transactions, and of the length of time during which such arrears have been outstanding.

(b) In requesting information the Fund shall take into consideration the varying ability of members to furnish the data requested. Members shall be under no obligation to furnish information in such detail that the affairs of individuals or corporations are disclosed. Members undertake, however, to furnish the desired information in as detailed

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and accurate a manner as is practicable and, so far as possible, to avoid mere estimates.

(c) The Fund may arrange to obtain further information by agreement with members. It shall act as a centre for the collection and exchange of information on monetary and financial problems, thus facilitating the preparation of studies designed to assist members in developing policies which further the purposes of the Fund.

Section 6. *Consultation between members regarding existing international agreements*

Where under this Agreement a member is authorized in the special or temporary circumstances specified in the Agreement to maintain or establish restrictions on exchange transactions, and there are other engagements between members entered into prior to this Agreement which conflict with the application of such restrictions, the parties to such engagements shall consult with one another with a view to making such mutually acceptable adjustments as may be necessary. The provisions of this Article shall be without prejudice to the operation of Article VII, Section 5.

Section 7. *Obligation to collaborate regarding policies on reserve assets*

Each member undertakes to collaborate with the Fund and with other members in order to ensure that the policies of the member with respect to reserve assets shall be consistent with the objectives of promoting better international surveillance of international liquidity and making the special drawing right the principal reserve asset in the international monetary system.

ARTICLE IX

STATUS, IMMUNITIES AND PRIVILEGES

Section 1. *Purposes of Article*

To enable the Fund to fulfill the functions with which it is entrusted, the status, immunities, and privileges set forth in this Article shall be accorded to the Fund in the territories of each member.

Section 2. *Depositories*

(a) Each member shall designate its central bank as a depository for all the Fund's holdings of its currency, or if it has no central bank it shall designate such other institution as may be acceptable to the Fund.

(b) The Fund may hold other assets, including gold, in the depositories designated by the five members having the largest quotas and in such other designated depositories as the Fund may select. Initially, at least one-half of the holdings of the Fund shall be held in the depository designated by the member in whose territories the Fund has its principal office and at least forty percent shall be held in the depositories designated by the remaining four members referred to above. However, all transfers of gold by the Fund shall be made with due regard to the costs of transport and anticipated requirements of the Fund. In an emergency the Executive Board may transfer all or any part of the Fund's gold holdings to any place where they can be adequately protected.

Section 3. *Guarantee of the Fund's assets*

Each member guarantees all assets of the Fund against loss resulting from failure or default on the part of the depository designated by it.

ARTICLE XIV

TRANSITIONAL ARRANGEMENTSSection 1. *Notification to the Fund*

Each member shall notify the Fund whether it intends to avail itself of the transitional arrangements in Section 2 of this Article, or whether it is prepared to accept the obligations of Article VIII, Sections 2, 3, and 4. A member availing itself of the transitional arrangements shall notify the Fund as soon thereafter as it is prepared to accept these obligations.

Section 2. *Exchange restrictions*

A member that has notified the Fund that it intends to avail itself of transitional arrangements under this provision may, notwithstanding

the provisions of any other articles of this Agreement, maintain and adapt to changing circumstances the restrictions on payments and transfers for current international transactions that were in effect on the date on which it became a member. Members shall, however, have continuous regard in their foreign exchange policies to the purposes of the Fund, and, as soon as conditions permit, they shall take all possible measures to develop such commercial and financial arrangements with other members as will facilitate international payments and the promotion of a stable system of exchange rates. In particular, members shall withdraw restrictions maintained under this Section as soon as they are satisfied that they will be able, in the absence of such restrictions, to settle their balance of payments in a manner which will not unduly encumber their access to the general resources of the Fund.

Section 3. *Action of the Fund relating to restrictions*

The Fund shall make annual reports on the restrictions in force under Section 2 of this Article. Any member retaining any restrictions inconsistent with Article VIII, Sections 2, 3, or 4 shall consult the Fund annually as to their further retention. The Fund may, if it deems such action necessary in exceptional circumstances, make representations to any member that conditions are favorable for the withdrawal of any particular restriction, or for the general abandonment of restrictions, inconsistent with the provisions of any other articles of this Agreement. The member shall be given a suitable time to reply to such representations. If the Fund finds that the member persists in maintaining restrictions which are inconsistent with the purposes of the Fund, the member shall be subject to Article XXVI, Section 2(a).

ARTICLE XV

SPECIAL DRAWING RIGHTS

Section 1. *Authority to allocate special drawing rights*

To meet the need, as and when it arises, for a supplement to existing reserve assets, the Fund is authorized to allocate special drawing rights to members that are participants in the Special Drawing Rights Department.

ARTICLE XXX

EXPLANATION OF TERMS

In interpreting the provisions of this Agreement the Fund and its members shall be guided by the following provisions:

(a) The Fund's holdings of a member's currency in the General Resources Account shall include any securities accepted by the Fund under Article III, Section 4.

(b) Stand-by arrangement means a decision of the Fund by which a member is assured that it will be able to make purchases from the General Resources Account in accordance with the terms of the decision during a specified period and up to a specified amount.

(c) Reserve tranche purchase means a purchase by a member of special drawing rights or the currency of another member in exchange for its own currency which does not cause the Fund's holdings of the member's currency in the General Resources Account to exceed its quota, provided that for the purposes of this definition the Fund may exclude purchases and holdings under:

(i) policies on the use of its general resources for compensatory financing of export fluctuations;

(ii) policies on the use of its general resources in connection with the financing of contributions to international buffer stocks of primary products; and

(iii) other policies on the use of its general resources in respect of which the Fund decides, by an eight-five percent majority of the total voting power, that an exclusion shall be made.

(d) Payments for current transactions means payments which are not for the purpose of transferring capital, and includes, without limitation:

(1) all payments due in connection with foreign trade, other current business, including services, and normal short-term banking and credit facilities;

(2) payments due as interest on loans and as net income from other investments;

(3) payments of moderate amount for amortization of loans or for depreciation of direct investments; and

(4) moderate remittances for family living expenses.

The Fund may, after consultation with the members concerned, determine whether certain specific transactions are to be considered current transactions or capital transactions.

(e) Net cumulative allocation of special drawing rights means the total amount of special drawing rights allocated to a participant less its share of special drawing rights that have been cancelled under Article XVIII, Section 2(a).

(f) A freely usable currency means a member's currency that the Fund determines (i) is, in fact, widely used to make payments for international transactions, and (ii) is widely traded in the principal exchange markets.

(g) Members that were members on August 31, 1975 shall be deemed to include a member that accepted membership after that date pursuant to a resolution of the Board of Governors adopted before that date.

(h) Transactions of the Fund means exchanges of monetary assets. Operations of the Fund means other uses or receipts of monetary by the Fund for other monetary assets. Operations of the Fund means other uses or receipts of monetary assets by the Fund.

(i) Transactions in special drawing rights means exchanges of special drawing rights for other monetary assets. Operations in special drawing rights means other uses of special drawing rights.

ARTICLE XXXI

FINAL PROVISIONS

Section 1. *Entry into force*

This Agreement shall enter into force when it has been signed on behalf of governments having sixty-five percent of the total of the quotas